

tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the Judicial Officer that an amendment of the pleadings would prejudice him on the merits, the Judicial Officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The Judicial Officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 957.12 Continuances and extensions.

Continuances and extensions will not be granted by the Judicial Officer except for good cause shown.

§ 957.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the Judicial Officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the Judicial Officer's order relative to hearing. He shall support his request with a statement outlining:

- (1) The evidence to be offered in such place;
- (2) The names and addresses of the witnesses who will testify;
- (3) The reasons why such evidence cannot be produced at Washington, DC. The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 957.14 Appearances.

(a) A Respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see part 951 of this chapter).

(c) When a Respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed debarment shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of Respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the Respondent.

(e) After a request for a hearing has been filed pursuant to the rules in this part, the Law Department shall represent the Department Head in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such office who has been assigned to handle the case on its behalf.

§ 957.15 Conduct of the hearing.

The Judicial Officer shall have authority to:

- (a) Administer oaths and affirmations;
- (b) Examine witnesses;
- (c) Rule upon offers of proof, admissibility of evidence, and matters of procedure;
- (d) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (e) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (f) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;
- (g) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;
- (h) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;
- (i) Render a final agency decision;
- (j) Take such other further action as may be necessary to properly preside over the debarment proceeding and render decision therein.